

# PROBLEMS AND PROSPECTS OF DEVELOPMENT LEGAL BASES OF STOCK MARKET REGULATION IN UZBEKISTAN

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*Straipsnyje nagrinėjama Uzbekistano vertybinių popierių rinka, konkrečiai šios rinkos funkcionavimo teisinis reguliavimas. Pateikiama Uzbekistano vertybinių popierių rinkos kūrimosi istorinė apžvalga, jos raida ir perspektyvos integracijos į pasaulio vertybinių popierių rinkos sistemą galimybes. Atskirai aptariama Uzbekistano vertybinių popierių rinkos teisinių pagrindų kaita, išskiriant vertybinių popierių biržos teisinį reglamentavimą.*

*The article deals with the problems of formation and functioning of stock marketing Uzbekistan. The basic attention at carrying out this research is given to formation of legal bases of effective functioning of the domestic stock market and its integration into the world markets that demands conformity to the modern requirements of high standards of the securities market.*

## Introduction

The liquid stock market in modern conditions is indispensable attribute of market economy. That's why origin and development of Stock market activity in the Republic of Uzbekistan is connected with transition of Uzbekistan to the market economy.

After achieving the national independence in 1991, Uzbekistan set himself as an aim to reach the civilized market economy. But as shows the long experience of economically developed countries, civilized market economy can not be completed without developed securities market and the main of its institute – a stock market.

The stock exchange and wholly the stock market in Uzbekistan became some kind of a “product” of privatization. The legal bases of privatization was adopted since 1991<sup>1</sup>. Subsequent and step-by-step privatization of enterprises and objects in Uzbekistan from the year 1992 has ensured liquidation of monopoly of state ownership, formation of private ownership as a determinant form of economic relations, as well as established conditions for formation of a class of real owners. By now, a share of non-governmental sector

<sup>1</sup> Law of the Republic of Uzbekistan “On Denationalization and Privatization” from November 19, 1991.

in industry is more than 80% in construction – 88.4%, in communication – 96.6%, in agriculture – 99.9%, in trade – almost 100%<sup>2</sup>. Formation of private ownership, increase of its role and share in the economy's structure is an important priority of economic reforms conducted in the country. As a result of formation of multi-structure economy in the country, private sector became predominant almost in all its spheres; today more than 75% of gross domestic product falls to its share.

At the same time, as Islam Karimov, the President of the Republic of Uzbekistan noticed in his report at the meeting of the Cabinet of Ministers dedicated to results of social and economic development of the country in the year 2006 and important priorities of deepening of economic reforms in the year 2007, “we need to change our attitude and approach to privatization, to do decisive steps on putting up for auction of shares of enterprises of leading branches of the economy, namely, chemical and electrotechnical industry, agricultural mechanical engineering, industry of building materials, etc.” Many critical notes was said concerning state of affairs on stock and securities markets of the Republic. Serious faults take place in a system of corporate management at privatized enterprises<sup>3</sup>.

Almost the same situation has place in other CIS countries. According to Report of European Bank for Reconstruction and Development (EBRD) “On the Quality of Securities Markets Legal Regimes in Early Transition Countries” legal regimes of se-

curities market of early transition countries such as Uzbekistan, Armenia, Azerbaijan, Georgia, Kyrgyzstan, Moldova and Tajikistan need to be reformed in various extents<sup>4</sup>.

As shows practice, today securities are the most effective mechanism of investment, diversification business and risk insurance. These processes demand a reliable legal base, since in conditions of transition to the market economy securities, can be used for a various sort of the manipulations leading to illegal extraction of profit. At the same time, the state intervention into operation of the given segment of economy should be extremely correct and economically proved for the rigid system of regulation, which can cause an inverse effect and entail stagnation of business activity of market participants and is an additional obstacle to inflow foreign investments into the Republic of Uzbekistan. That is why, formation of reliable bases of legal regulation of the domestic stock market represents one of the priority problems of legal and economic construction in the Republic of Uzbekistan.

## **1. Origin, conception and functions of stock exchanges**

A stock exchange is essentially an organized market where securities listed on it are traded. The stock exchange provides of price discovery and liquidity to the securities listed on it.

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<sup>2</sup> See in details: [www.gki.uz](http://www.gki.uz)

<sup>3</sup> See in details: [www.press-service.uz](http://www.press-service.uz)

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<sup>4</sup> European Bank for Reconstruction and Development Report on the Quality of Securities Markets Legal Regimes in Early Transition Countries. – December 2004. The Report is available on [www-ebrd.com/country/sector/law/index.htm](http://www-ebrd.com/country/sector/law/index.htm)

Early stock markets were associations of securities traders who met to buy and sell securities. For example, the London Stock Exchange started in coffee houses in Change Alley, moving to a building marked as “The Stock Exchange” in 1773, and charging an entrance fee for admission<sup>5</sup>. The Berlin Stock Exchange was founded by an edict of the Elector of Brandenburg in 1685<sup>6</sup>. Over time, these associations of traders acquired premises, and developed rules of operation and began to call their associations “stock exchanges”. Although people bought and sold securities in the middle ages in continental Europe, historians tend to locate the real beginnings of modern stock exchanges in the seventeenth century. Ranald Michie states that a formal stock exchange was first created in Paris in 1724, after the speculation provoked by John Law’s activities<sup>7</sup>. It was only from the seventeenth century onwards, with the appearance of both negotiable instruments representing national indebtedness and transferable stocks issued by corporate enterprise, that the volume of business generated by securities was such as to justify the beginnings of professional intermediation and organized markets<sup>8</sup>.

On the bases of above stated we can say that stock exchanges have been the product of circumstance, or of design. These

differences in the origins of exchanges have tended to lead to differences in perceptions of the role of exchanges, and in views about what their relationship with the legal system should be. Thus, where exchanges formed spontaneously, governments tended to allow them more space to regulate their own affairs than where exchanges were created by the state. In both cases, stock exchanges have historically been subject to limited competition from other firms<sup>9</sup>.

Stock exchanges are intermediaries: they bring together sellers and buyers, investors and issuers, and, through information distribution, informed and uninformed market participants, providing all conditions for fair trade.

According to legislation of Uzbekistan stock exchange is the organization, exclusive subject of activity of which is maintenance of necessary conditions of the normal circulation of securities, determination of their market prices (prices, reflecting balance between supply and demand on securities) and proper distribution of the information about them, maintenance of a high level professionalism of the participants of the market of securities<sup>10</sup>.

Features of stock exchanges which make them out of the ordinary is that they are both regulators and regulated entities:

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<sup>5</sup> See in details: David Kynaston, *THE CITY OF LONDON, VOL. 1, A WORLD OF ITS OWN 1815-1890*, 16–17 (1994).

<sup>6</sup> See in details: [http://www.berlinerboerse.de/english\\_OBEX/obex/bb\\_chr.htm](http://www.berlinerboerse.de/english_OBEX/obex/bb_chr.htm).

<sup>7</sup> See in details: Ranald C. Michie, *THE LONDON STOCK EXCHANGE. A HISTORY*, 3 (1999).

<sup>8</sup> See, e.g., Ranald C. Michie, *The London Stock Exchange. A History*, 2 (1999)

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<sup>9</sup> See, e.g., Roberta S. Karmel, *The Future of Corporate Governance Listing Requirements*, 54 *SMU L. REV.* 325, 348 (2001) (“Self-regulation gave exchanges more credibility as quasi-public institutions and also protected their monopoly type powers.”).

<sup>10</sup> Article No.17 Law of the Republic of Uzbekistan “On securities and Stock Exchange” No.918-XII, dtd 2.09.93 (with changes and additions Laws of 23.09.94, 22.12.95 and 26.04.96, 30.08.96, 27.12.96).

regulators insofar as they oversee the market they organize, and at the same time regulated to the extent that they are subject control and supervision by the governmental body. In Uzbekistan the Centre for coordination and control over operation of securities market at the State committee of the Republic of Uzbekistan on management of state property (hereinafter Centre) is the authorized body for regulation of relations in this sphere <sup>11</sup>.

Stock exchanges play an important role in channeling internal and external funds from savers to productive users, which is an essential process for Uzbek economic development and competitiveness between. With another words, stock exchanges are pillars of a nation's economy<sup>12</sup>.

Regarding to functions we might identify stock exchanges as market organizers, as information distributors, as market regulators, as standards setters, and finally, to an increasing degree, as business enterprises.

As in many other industry sectors, humans are increasingly getting replaced by computers, with stock exchanges maintaining electronic systems that match buy and sell orders automatically. Not surprisingly, aside from regulatory expenses, stock exchanges today spend most on information and communication technology.

Of increasing importance is the stock exchanges' function as distributors of the information they generate in the price dis-

covery process. Such information takes two primary forms, and its knowledge is critical from two main perspectives.

The first set of information consists of the trades that have been executed, including the volume, the price, and to some extent the parties involved. Information of that type has a considerable economic value, as it helps provide a vast number of financial services, such as furnishing market reports, analyzing stocks, recommending certain securities for buy and sell, and so forth. Moreover, information about previous trades is needed for numerous related business purposes, the most important application being derivatives, which are financial instruments whose value is derived from an underlying asset such as stocks. For the price discovery of such stock based derivatives, it is critical to get the latest stock prices. Aside from these business purposes, information about settled trades has a paramount regulatory function, as it is the very basis of market surveillance and helps detect securities fraud such as insider trading or market manipulation.

The second kind of market data that stock exchanges offer is quotes. These are prices at which market participants are willing to buy securities ("bid quotes") or sell ("ask quotes"), with the difference being the so-called spread. To some degree, the knowledge of quotes allows prediction of future stock prices, making that knowledge very valuable to traders.

The stock exchanges' function as market regulators is-in contrast to market organization-not innate. There are two main reasons for this notion. First, it is questionable whether stock markets need be regu-

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<sup>11</sup> See in details: [www.gsm.gki.uz](http://www.gsm.gki.uz)

<sup>12</sup> Subhashish Saha. Stock Exchange Demutualization and Self Regulation Securities and Exchange Board of India Mumbai. Preliminary Draft September 5, 2005.

lated at all: Other markets operate without any special rules, relying instead primarily on the traders' caution (*caveat emptor*) and secondarily on the common law rules concerning fraud. Second, market regulation, if deemed necessary, need not be vested in the stock exchanges themselves. Instead, it might be good, or even better policy to confer this mandate upon someone other than the market organizer. These issues are far from being clearly decided. Indeed, some commentators even argue for moves in the opposite direction, in favour of increasing the stock exchanges' powers to regulate the market.

All market participants and affiliates, particularly the broker-dealers that trade on the market and the issuers of the traded shares, are subject to rules that stock exchanges enact particularly for their marketplace. Moreover, stock exchanges are empowered to monitor the participants' compliance with the regulatory regime, not only with respect to their own rules but also with law and rules promulgated there under, most importantly by the Centre. By doing so, stock exchanges perform an important role to provide for fair trading and accurate price discovery, both critical components in fostering investor confidence. For the case in which someone fails to abide by any of the rules, the stock exchanges are vested with numerous enforcement powers, from fining violators to permanently banning them from the marketplace.

Stock exchanges regulate their issuers through so-called listing rules. However, a considerable number of stock exchange listing rules are more than regulations

providing for fair trading, aiming not at bettering the quality of trading but at increasing the quality of the traded products: the companies, the stocks of which are sold and bought. We call such listing rules "corporate governance rules." Noteworthy examples are rules about continued disclosure, takeover defense, stockholder power, the composition of the issuer's board, and the establishment of specific board committees. The aim of such rules was, and still is, to improve the corporate governance of listed companies. Although one can trade stocks of badly managed companies just as well as the stocks of those well managed, usually sincere investors are likely to prefer the latter. Therefore, stock exchanges have a strong incentive to look at the quality of the products offered on their markets.

By fulfilling the above-mentioned functions (market organization, information distribution, market regulation, and standards setting), stock exchanges carry on a business enterprise. While the business of running an exchange is not necessarily a commercial (i.e., for-profit) business, it is definitively a business, and as for every business, those who run it and own it want to retain and improve its standing. If a stock exchange's management fails to defend the market share of its exchange or loses issuers to competing stock exchanges, it can expect to be ousted sooner or later (likely sooner if the business is for-profit). So, even though stock exchanges have regulatory powers, they are-irrespective of their actual organization and their plans to make profit or not-still businesses rather than governmental bodies or agen-

cies, where the pressure for good performance is normally much lower.

In conclusion a stock exchange (or corresponding departments of stock exchanges) and investment institutions which are obliged to make the following information available to any interested entity: rules regulating the access of securities to auctions, regulations governing the signing and verification of transactions, a procedure for their registration and use, certain restrictions designed to eliminate any price manipulation, as well as the list of services rendered to organizers of securities auctions, and the list of securities admitted to auctions.

It must be noted that stock exchanges play an important role in channeling funds from savers to productive users, which is an essential process for economic development and competitiveness. We consider that in regulation of such relations leading role must be done to elaboration and enforcement of rational legal approaches with keeping in mind the features of developing countries, especially developing based on the principles of market economy.

## **2. Generation and evolution of legislation in the sphere of stock market**

Stock market in Uzbekistan is relatively new, special institute of economy, which demands adequate legal base and regulation. On the bases of this in this paragraph discussed the problems of formation first stock exchange in Uzbekistan, its legal bases and issues on improving stock market activity in this country.

The development of legislation of Uzbekistan in the sphere of stock market activity we can conventionally divide in three stages.

**The first stage** is characterized with formation of commencement rules of creation joint-stock companies, their securities issuing activity and wholly primary market of securities in the Republic of Uzbekistan.

This stage was finished with founding first and in nowadays single stock exchange in Uzbekistan – Tashkent Stock Exchange (hereinafter TSE). It was established in 1994 under the Resolution of the President of the Republic of Uzbekistan “On deepening economical reforms, guaranteeing protection of private property and developing of enterprise activity”<sup>13</sup>.

However the stock exchange in Uzbekistan was established in 1994, adoption of it’s legal base began earlier. Cause of this was that during three years, since 1991 to 1994 we had to elaborate economical and legal bases of securities, which is main product of stock exchanges. Without high liquid securities of join-stock companies stock market can not achieve it’s goal. On the bases of this was created legislation in sphere of denationalization and privatization<sup>14</sup>, Law of the Republic of Uzbekistan “On securities and Stock Exchange”<sup>15</sup> and many subordinate legislation.

<sup>13</sup> Dated 25 April 1994, numbered 745.

<sup>14</sup> Law of the Republic of Uzbekistan “On Denationalization and Privatization” from November 19, 1991 (With amendments introduced by the Law of 07.05.1993)

<sup>15</sup> No.918-XII, dtd 2.09.93. See in details: Gazette of the chambers of the Oliy Majlis of the Republic of Uzbekistan, 2005, No. 9, Art. 311, No.12, Art. 413



**The second stage** of development legislation of Uzbekistan in the sphere of stock market activity starts from 1995. Features of this stage is that in this period (1995–2000) the national legislation devoted on securities market activity qualitatively changed. Also was adopted many crucial acts, such as Decree of the President of the Republic of Uzbekistan “On the Initiation and Stimulation of Private Business”<sup>16</sup>, Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan “On Some Questions of Denationalization and Privatization of Some Enterprises and Property”<sup>17</sup>, “On Urgent Measures on Initiation and Stimulation of Private Business”<sup>18</sup>, Law of the Republic of Uzbekistan, “On the mechanism for the securities market performance”<sup>19</sup>, Law of the Republic of Uzbekistan On Joint-Stock Companies and Protection of Shareholders Rights<sup>20</sup>, Law of the Republic of Uzbekistan “On protection of the investors’ rights on the securities market”<sup>21</sup>, Presidential Decrees, “On additional measures designed to stimulate the securities market development and to increase participation of foreign investors in the Republic’s stock exchange market”<sup>22</sup>, and “On measures designed to further the development of the stock exchange market and to support joint-stock companies established on the basis of the state-owned property”<sup>23</sup>,

<sup>16</sup> No. UP-1030 dtd. January 5, 1995

<sup>17</sup> No. 448 dtd December 4, 1995

<sup>18</sup> February 14, 1995 No.55 (As amended by the Resolution No. 376 of 31.10.96)

<sup>19</sup> No 218-I April 25, 1996

<sup>20</sup> No. 223-I dtd. 26.04.1996

<sup>21</sup> No. 262-II dtd 30.08.2001

<sup>22</sup> No UP-1740 dated March 31, 1997

<sup>23</sup> No UP-1939 dated March 4, 1998

Regulations on underwriting activity on securities market<sup>24</sup>, Regulations on the prevention of manipulation in the securities market<sup>25</sup>, Procedure for the sale of shares of privatized enterprises to foreign investors through special selling area of Tashkent Republican Stock Exchange for freely convertible currency<sup>26</sup>, Regulations on the procedure for admission, registration and placement of securities of foreign issuers in the Republic of Uzbekistan and Uzbek issuers abroad<sup>27</sup> etc.

All these and other documents create effective circulation base of securities in stock market of Uzbekistan, lay down following main principles of this activity: the creation of a favorable investment environment for all potential investors; the arrangement of deals on a voluntary basis; the elimination of barriers hampering the

<sup>24</sup> Registered MJ No.860 dtd December 28, 1999; Approved M.Yunusmatov, Deputy Chairman, State Committee for State Property Management and Entrepreneurship Support Director general of the Center for Coordination and Control over Securities Operation dtd December 21, 1999

<sup>25</sup> Registered MJ No.820 of september 21, 1999; Approved by M.Yunusmatov Deputy Chairman, Goskomimuschestvo Committee of the RU, General Director, centre for Coordination and Control over Securities Market Functioning No. 04/103 of June 23, 1999

<sup>26</sup> Registered by the MJ of RU N 583 dtd December 30, 1998; Approved by the First Deputy Chairman of the SPC of RU A.Abdukadirov, Deputy Minister of Finance of RU E.Gadoev, Deputy Chairman of the Central Bank S.Rakhimov, Decision taken by the Board of Directors of Tashkent Republican Stock Exchange N 321 dtd December 18, 1998

<sup>27</sup> Registered by MJ No.199 dtd December 20, 1995; Approved by B.Khamidov, Deputy Prime Minister No.106 dtd November 29, 1995; Coordinated by F. Mullajanov, Chairman, Board of Directors of the CB dtd 9.11.95 No. 01-51; Sh. Gataulin, Chairman, STC dtd 20.11.95 No. 09-5078; A. Abdukadirov, Deputy Finance Minister, Chairman of the State Commission for securities and stock exchanges operated at the MF dtd 20.11.95 No. 08-03-02/1739

development of free and fair competition; to fix prices on the basis of an actual demand-and-supply situation; the abidance by the securities law by all market participants; the obligatory provision of information relating to stock exchange and over-the-counter transactions, quotations and financial position of emitters; the protection of interests of both investors and emitters; prohibition and prosecution of fraud and other unlawful activity occurring in the securities market etc.

One more features of second stage was the foundation and development of secondary market of securities. The secondary emission of securities and their floatation at the current prices in the secondary stock-exchange market have important roles to play in helping to attract capital into productive investment. That is why joint-stock companies should not miss this opportunity, even if their first issues have completely been floated. The Goskomimuschestvo Committee, a joint-stock company and other investors, who have become shareholders according to the established procedure, may initiate the secondary emission by privatized enterprises.

The volume of the secondary issue is specified at the general meeting of shareholders on the basis of a joint-stock company's business plan for its further financial and economic development and/or the volumes of long-term financial investments agreed with an investor in a preliminary agreement (or protocol of intentions).

**The third stage** (2001–2008). Peculiarities of the current stage of the securities market development and its role in the nation's economy The Republic has defined

the development of a well-functioning stock exchange market as one of its economic priorities.

The basic ways to accomplish this are (1) to develop a legal and regulatory infrastructure which should protect private property and enforce contracts; and (2) to promote high quality investment, including that from abroad. Without these basic ingredients it is not possible for a stock exchange market in a transition economy to develop and function properly. In the case of Uzbekistan, a more active participation of joint-stock companies in privatization of state-owned enterprises is likely to be a key driving force in this process. True enterprise owners should appear in the Republic who are capable of giving a fresh impetus to the development of various industries, with an emphasis placed on their modernization, reorganization, if needed, attraction of additional investments, promotion of a competitive market-driven environment and expansion of international markets for indigenous produce.

With a view to increase involvement of joint-stock companies in drawing investments, both domestic and foreign, which can foster their technical re-equipment and stimulate their activity in the Republic's stock exchange market, Presidential Decree, "On measures designed to ensure the securities market's further development and the provision of support to joint-stock companies established on the basis of the state-owned property" has defined, in particular, that shareholdings designed for both free sale and that to foreign investors, are being floated and sold in cooperation with joint-stock companies and the Gosko-



mimuschestvo Committee of the Republic of Uzbekistan.

Additional features of the third stage was approximation of national stock market to international standards in view of form and substance. Was adopted the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On joining Centre for coordination and control over operation of securities market at the State committee of the Republic of Uzbekistan on management of state property to the International Organization of Securities Commissions – IOSCO.

Besides this Tashkent Stock Exchange entered into relations with many international financial markets, such as Ukraine National Depository in July 2003, Ukraine Interbank Currency Exchange in May 2004, London Stock Exchange in July 2004, Sank Peterburg Currency Exchange in July 2004, Moscow Interbank Currency Exchange in December 2005 etc<sup>28</sup>.

We wish that Uzbekistan’s stock market prosper in the near future, because nowadays set up all conditions for this, both economic and legal, if there will be pay proper attention to improvement of legislation base and perfection of law enforcement practice in this sphere, which will discussed in last paragraph.

### **3. Experience and practice of legal regulation of stock exchanges activity in new EU members and in some CIS countries**

This paragraph is concerned with the development prospects for securities exchanges

in new EU member countries. The paper reviews the main issues impinging on the progress of the latter exchanges which include increased internationalization, the drive to augment securities business and consolidate liquidity, and more general issues such as the competitive edge which may potentially be gained through technology and investor protection. These concepts are of significant importance given that they determine the future profitability and hence survival of new EU member countries securities exchanges. The paper then discusses the features of legal regulation of stock exchanges activity in CIS countries. Given reveal “peculiar” characteristics of such financial markets.

The member states which joined the EU in 2004 were Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. Most of the Eastern European countries were formerly planned economies, and their securities exchanges were only set up (or re-established) lately. Increased foreign banking presences indicate a higher degree of international integration in these countries. The economies of the Mediterranean countries Cyprus and Malta are overall more developed as compared to the other new entrants, as outlined by Facchini and Segnana (2003). Yet, the latter countries’ exchanges were still set up lately in the 1990’s. Most of the exchanges in new EU member countries were established in conjunction with government privatization programs, whereby shares in previously government-owned institutions were sold to the general public.

Most of the new EU member countries exchanges are characterized by their small

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<sup>28</sup> See in details: [www.uzse.uz](http://www.uzse.uz)

size and meek liquidity levels. An additional common factor is the modest presence of well-developed institutional investors which are required to foster trading, investment, and pricing efficiency.

According to Claessens et. al. (2003), the market capitalization of these new EU member countries typically use modern electronic trading systems, which give them a competitive edge over other institutions where parts of the process are manual and where there are no Central Securities Depositories.

The exchanges in new EU member countries have to compete with other institutions in the global markets, including the main European exchanges such as Deutsche Börse, Euronext, and the London Stock Exchange. The latter exchanges typically attract cross-listings and Global Depository Receipts (GDRs) from less prominent exchanges, and indeed most of the major exchanges have tier markets which are aimed at smaller companies, such as those prevailing in new EU member countries. This may partly explain why most of the new EU member countries exchanges have lost listings as noted by Claessens et. al. (2003). One further factor which may explain the loss of listings in new EU member countries exchanges is that some companies were bought by foreign institutions and subsequently delisted.

New EU member countries exchanges are currently facing important strategic issues which include dealing with the implications of internationalization, enhancing business and liquidity, reducing transaction costs through new technologies, as well as influencing various ancillary poli-

cies which impinge on stock market development.

The short analysis of activity of new EU member countries exchanges described the current challenges for securities exchanges in these countries and outlined strategic considerations and possible actions which should be evaluated in addressing such factors. Whilst exchanges will be key players in determining how such challenges will be addressed, the possible courses of action do not depend entirely on these institutions but also on policy makers and other participants in the securities markets such as regulators, institutional investors and the companies seeking finance. This implies that the exchanges' human resources who get involved in external contacts are one key element in influencing whether and how additional business may be generated. This becomes even more evident when considering that possible courses of action include strategic alliances with other exchanges.

**Legal regulation of stock exchanges activity in some CIS countries.** The Special commission of European Bank for Reconstruction and Development (EBRD) were analyzed the legal regimes of securities market of early transition countries such as Uzbekistan, Armenia, Azerbaijan, Georgia, Kyrgyzstan, Moldova and Tajikistan. According to the Report<sup>29</sup>, which was the peculiar result of this work, the whole situation of the securities market legislation in Early Transition Countries (ETC) as following:

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<sup>29</sup> European Bank for Reconstruction and Development Report on the Quality of Securities Markets Legal Regimes in Early Transition Countries. – December 2004.

- Two of the seven members of the ETC (Azerbaijan and Tajikistan) have securities markets laws that are in critical need of reform;
- Four of the seven members of the ETC (the two above mentioned plus Moldova and the Kyrgyz Republic) rank at the bottom of all EBRD countries for securities markets legislation extensiveness;
- Uzbekistan, Georgia and Armenia are the only ETC that ranked as “Medium Compliance Country”, having a legal framework that, while still needing improvement, can be said to reach a relative degree of compliance with international standards<sup>30</sup>.

Extensiveness of securities markets legislation is measured through the EBRD’s “Sector Assessment”. The Sector Assessment scored each law on 11 different sections. The findings of the Report are the measure of the degree to which emerging markets securities laws are enforced in practice or are effective, and compared to applicable international standards (basically the Objectives and Principles of Securities Regulation published by the International Organization of Securities Commissions – IOSCO<sup>31</sup>).

The securities markets legislation assessment work of the EBRD reveals that legal reforms are badly needed on several issues. In some cases (in particular in Azerbaijan and Tajikistan) a comprehensive reform should be undertaken. Moldova

and the Kyrgyz Republic should seriously consider strengthening investors’ protection rules and enhancing capital adequacy, liquidity and segregation of assets requirements.

Disclosure to investors should be generally improved and international cooperation between regulators should be promoted. Reforms should be implemented taking into consideration the entire national legal system in order to create a coherent and fully harmonized set of rules avoiding patchworks. Primary legislation should clearly state - 12 - the general principles to be implemented by secondary legislation. The latter should be enacted, reviewed and updated by regulators, which should also have the power to provide instructions and guidelines concerning interpretation of the law. The law should be enforceable and sanctions should be adequate to discourage illegal actions and assure market transparency.

On the bases of short analyses revealed following peculiarities of legislation of some CIS countries in the sphere of stock market activity.

First of all for various reasons no saturation of financial markets, especially securities markets with large volume of people. Solution of this problem may be strong stimulation of participating population in the stock market processes. This must be based on rationally elaborated and strategically involved program of development national securities market.

The second feature of stock markets in some CIS countries is non development of corporate governance in joint-stock companies and on the bases on this lack of real

<sup>30</sup> ibidem

<sup>31</sup> IOSCO Objectives and Principles of Securities Regulation. May 2003. [www.iosco.org/pubdocs/pdf/IOSCOPD125.pdf](http://www.iosco.org/pubdocs/pdf/IOSCOPD125.pdf)

transparency in the stock exchanges. This fact negatively effects on flowing invests, especially foreign invests in form of buying securities. For resolve this problem, as we think, must be paid proper attention to increasing responsibility of managers of companies, realize special programs, devoted to stimulation disclosure information in securities markets and promote role of stock exchanges in provision of transparency.

The third peculiarity also connected with the second. It is shown in too much influence of government and its bodies in regulating activity in the stock exchanges. Now almost in all countries exchanges activity considered as licensable. It is one of the ways of governmental regulation of such relations. We think, just in developing countries such situation is naturally. But in course of time, and development governmental regulation should be step by step liberalized and must paid proper attention to improvement self regulation of stock exchanges.

The last feature is lack of qualified and highly skilled personnel in this sphere. In spite of that today many institutions preparing specialists for stock market, they can not meet the requirements of fast changing relations. As we consider for decision of this problem should be founded joint centers for preparing and retraining specialized cadres in the sphere of securities market.

We hope that united actions on solving above mentioned problems may cause developing not only national securities market, but also it effects to effort achievements in regional financial markets.

#### **4. Problems and perspectives of development legal bases of stock market regulation in Uzbekistan**

This paragraph includes some problems, revealed during the research and offers on improving acting legislation of the Republic of Uzbekistan on stock market.

Reforms on developing legal base of securities market should be implemented taking into consideration the entire national legal system in order to create a coherent and fully harmonized set of rules avoiding patchworks. Primary legislation should clearly state the general principles to be implemented by secondary legislation. The law should be enforceable and sanctions should be adequate to discourage illegal actions and assure market transparency. Policy makers should be aware of the importance of the contribution that an efficient securities market can provide to economic development.

The result of research has revealed that in nowadays there is no real competition between stock exchanges in Uzbekistan. In our mind the main reason of this is lack of special mechanism founding stock exchanges there. We consider that in Uzbekistan should be realized appropriate measures on stimulating creation of alternative stock exchanges and providing competitive situation among these institutions of economy. We believe that it will positively effect on developing circulation of securities, rising volume of secondary market of securities and inflowing invests, especially foreign invests them.

Uzbekistan occupies the first place in respect of securities markets legal regime's

quality among other countries under analysis however, it is necessary to notice, that the securities market and corporate sector in Uzbekistan only starts to approach to its main macroeconomic functions<sup>32</sup>. Despite of rather high development rates of Uzbek securities market<sup>33</sup>, its capitalization remains still insufficient for use of all advantages of modern economic tools.

It's needless to say that most of the lacks are primarily connected with absence of effective law enforcement mechanisms, and also with objective problems of economic development of the region. Because of the restrictions many participants of business activity prefer to conclude transactions in over the counter market that essentially narrows an opportunity of monitoring transactions and legitimacy maintenance.

In this aspect it's crucial to provide transparent information in unorganized market and monitor operations spent on it, involving economic stimulus for carrying out of operations within exchange and organized markets, by facilitating various market services and creating convenient conditions for organized market participants.

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<sup>32</sup> See in details: **Broadman H. Competition, Corporate Governance and Regulation in Central Asia: Uzbekistan's Structural Reform Challenges.** –The World Bank Europe and Central Asia Regional Operations Poverty Reduction and Economic Management Department <http://www.wbrd.com>

<sup>33</sup> By October 1, 2006 13 457 share emission with total amount of 3 621,8 bln. Sum were registered. Increasing from the beginning 1999 on the average on 63,5% year, a cumulative turnover of a corporate securities market (stocks and bonds) for 9 months of 2006 made up 277,2 bln. sum. That is practically equivalent to a biennial turn (for 2004 and 2005 the general turnover was 281,3 bln. sum.) See: Uzbekistan Securities Market Review for 9 months of 2006. Avesta Research. <http://www.avestagroup.com>, <http://www.avesta.uz>

In order to promote these goals it is vital to reduce economic and time costs of national securities market participants by simplification of procedure of transactions conclusion and registration in the stock exchange and by creation of legal preconditions for wide introduction of risks insurance system (hedging) in securities market.

As principal causes of a low development of corporate sector in Uzbekistan we shall allocate: imperfection of current legislation; insufficient use of stock exchanges advantages; insignificant quantity of solvent participants of domestic financial market; weak influence of self-regulation institutes on market processes, and also some legislative and practical restrictions, as well as rigid state control over stock market and in some cases unreasonable intervention of the state in business sphere<sup>34</sup>.

As a whole, assessing a condition of corporate sector in Uzbekistan, we can conclude that as a result of privatization in Uzbekistan the structure of joint-stock companies based on distribution of small share holdings among the big amount of minority shareholders, and also is being functioning on “special” relations between major shareholders and management occur.

This situation frequently leads to the cases when major shareholders are interested not so much in profit increase but in preservation of specific relations with managers and clients (for example, concerning control of financial streams or

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<sup>34</sup> See in details: Spechler M.C. Uzbekistan: The Silk Road to Nowhere? – Contemporary Economic Policy. – Vol. 18. – Issue №3. – July 2000.

export-import transactions). As a result the deformed mechanisms of business valuation take place when the price of business is not directly connected with its estimation in the stock market. Thus off market form income extraction generates off market form of company valuation. Market relations are superseded from the sphere of property rights protection, and as a result there is an asymmetry in the real rights of various groups of shareholders, that potentially creates the environment for a various sort of manipulations, including money laundering and financial fraudulent<sup>35</sup>.

The situation is aggravated also with the fact that today the overwhelming companies of Uzbekistan can be characterized as nontransparent. It's caused by the actions of the management which doesn't properly understanding the importance of providing of authentic and full information and doesn't have stimulus to increase of transparency level and thus intentionally breaking legislation norms.

In order to increase Central Asia countries' corporate sector transparency it is extremely important to create an effective and reliable legislative base of international accounting standards introduction.

Moreover it's important to provide integration of stock market of the countries of the region into international payments and clearing systems, electronic trade and depositary services. It's far less not important to involve independent international rating agencies, analytical companies and research institutes in the national markets.

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<sup>35</sup> See in details: European Bank for Reconstruction and Development Report on the Quality of Securities Markets Legal Regimes in Early Transition Countries. – December 2004.

It's essential to stimulate the introduction of electronic document circulation in transactions with securities, creation and implementation of electronic system of information distribution among securities market participants as a basic condition of market transparency and free information interchange policy.

We must confess that still the regime in which transactions and document circulation in the countries of Central Asia region are made remains paper one. However it's extremely important to focus the economic and legal environment of the countries on changes in a waterway of technological revolution.

But now, in Uzbekistan obvious mistrust to introduction of technological and information analogues of traditional forms and methods of management can be observed.

To be precise, in spite of the fact that the legislation of the Republic of Uzbekistan (art.107 item 2 of the Civil Code, and art.7 of the Law of the Republic of Uzbekistan “On Electronic Document Circulation” of 29.04.2004) stipulate totally equivalent and authentic legal regime of paper documents and electronic ones, frequently by-laws deform the given principle and thus significantly limit the sphere of electronic document application.

For example, Regulations “On Documents and Document Circulation in Book Keeping”<sup>36</sup> state, under condition of avail-

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<sup>36</sup> Approved by the Decree of the Minister of Finance of the Republic of Uzbekistan on 23.12.2003, №131. Registered by the Ministry of Justice of the Republic of Uzbekistan on 14.01.2004, №1297.



ability of special means it's permitted to create primary documents and registers on machine-readable data carriers (item 1.3). At the same time the document made in electronic way, should be recorded on the factual data medium (magnetic or paper one) and printed according to the requirements stipulated by the Regulation (item 1.4).

The similar situation takes place also in the sphere of such important institute for modern corporate governance as disclosure. In particular, item 4 of the Regulations "On Securities Market Participants' Information Disclosure"<sup>37</sup> determines that the information to be disclosed according to the legislation should also be published by companies in the Internet. At the same time the item. 14 of the Regulations on essential facts, establishes requirements of provision of information on them in a paper and magnetic data medium (item.14). This norm directly breaks the principle of electronic and paper document authenticity and moreover duplicates the document circulation process.

It's quite obvious, that the electronic format plays a key role in maintenance of transparency of corporate reporting as allows to connect each element of the information with the exact contextual description. Electronic format considerably facilitates access to the information and its use, and also expands opportunities of estimation of correspondence of informed data to the international standards of financial reporting.

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<sup>37</sup> Approved by the Decree of the General Director of the Center on Coordination and Control over Securities Market Functioning on 27.03.2002, №2002-06. Registered by the Ministry of Justice of the Republic of Uzbekistan on 18.04.2002, №1127.

Also, considering that market mechanisms in Uzbekistan, as well as in other countries of the Central Asia are at the stage of their formation, it is important to implement international standards and take into account positive experience of the countries with effective free market. Adequate and creative implementation of international standards in national legal systems and corporate sector will create additional guarantees against money-laundering and international financial fraudulent.

In this aspect it's necessary to emphasize the activity and standards presented in documents of International Organization of Securities Commissions (IOSCO)<sup>38</sup> one of which member is also the Republic of Uzbekistan<sup>39</sup>.

In particular, we consider that it's necessary to implement in Uzbek legislation IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information<sup>40</sup>. This measure will allow Uzbekistan to resist to illegal transfer of the capital and use of securities and their derivatives in various manipulations including ones connected with money laundering.

Another international document which, in our opinion, is also should be implemented by the Republic of IOSCO Anti-

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<sup>38</sup> Members list of IOSCO by February 1, 2007 contains more than 180 securities market national regulators which cover 100 jurisdictions. <http://www.iosco.org>

<sup>39</sup> Resolution of the Cabinet of Ministers of the Republic of Uzbekistan of 12.01.1998. №16 "On entry of the Center for coordination and control over securities market functioning in International Organization of Securities Commissions".

<sup>40</sup> IOSCO 2003 Annual Conference Press Release. – Seoul, South Korea, 16 October 2003. <http://www.iosco.org>

Money Laundering Guidance for Collective Investment Schemes<sup>41</sup>.

It's also important to mention the necessity of appliance of "know your customer" standard in order to trace capital movement and promote effective international interaction in this sphere<sup>42</sup>.

Not less significant are 40 Recommendations on struggle against money-laundering and financing of terrorism developed by Financial Action Task Force on Money Laundering (FATF) organization<sup>43</sup>.

Nevertheless, despite of all evidence of necessity of effective measures acceptance on struggle against money-laundering and prevention of corporate frauds, imperfection of regulation and law enforcement process, lack of modernized information systems as well as poor audit technique make national economy subjected to the risks of widespread money laundering and corporate fraud.

To sum up the above-stated, we would like to point out the following measures which should be undertaken in Central Asia countries in order to promote corporate environment free from money-laundering and financial fraudulent. In particular, these measures are:

- elaboration of effective legal base on money-laundering counteraction, and

its correlation with other branches of the legislation;

- strengthening of supervision and a transparency on transactions made by transnational companies;
- broadening of regional and international cooperation in order to prevent money-laundering and financial fraud;
- introduction of international standards of accounting and audit;
- creation of specialized efficient institutions on money-laundering counteraction;
- formation of consolidated database, uniform legal space and coordination of activity of state bodies and real mechanisms of influence on coordinated struggle against money-laundering, etc.

We believe, that correct, coordinated economic-legal approach along with political measures will allow to minimize risk of money-laundering and financial fraudulent and undoubtedly will positively effect national economies and as a consequence standard of living in Central Asia countries.

## Conclusions

Inherently stock market in Uzbekistan gives the effective mechanism redistributing of monetary accumulation in economy, provides an opportunity to involve practically unlimited investment resources, both with internal, and with external sources. Being "heart", "barometer" and "monitor" of economy, the indicator of corporate management of companies, the stock

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<sup>41</sup> IOSCO Technical Committee of the International Organization of Securities Commissions. October 2005. <http://www.iosco.org>

<sup>42</sup> IOSCO, Principles on Client Identification and Beneficial Ownership for the Securities Industry at 2 (May 2004), <http://www.iosco.org/library/index.cfm?whereami=pubdocs>.

<sup>43</sup> Financial Action Task Force on Money Laundering (FATF). The Forty Recommendations. – June 20, 2003. <http://www1.oecd.org/fatf>.

exchange creates equitable conditions for fair trade. In high-grade and duly maintenance of such conditions impact many factors, one of which cores is legal security of these relations.

The paper discusses the strategic priorities and challenges for securities exchanges in Uzbekistan, some CIS and EU countries. The basic attention at carrying out this research is given to functions of stock exchanges, formation of legal bases of stock market in Uzbekistan and its integration into the world markets, revealed problem reducing speed of development national securities market and elaborated decisions, offered directions of improvement national and regional legislation.

Author considers that the main problem slow down stock exchange activity in Uzbekistan is lack of competition among these institutions of economy. Cause of this, as thinks the researcher, is scarcity of effective legal mechanisms starting with foundation stock exchanges and finishing their activity etc.

We hope that the results of research considerably effects in developing legislative activity and law enforcement practice in the sphere of stock market Uzbekistan and CIS countries. Wholly all these effect not only in the legal bases of stock market activity in Uzbekistan, but also in the process of legal regulation of securities market in CIS countries.

## LITERATURE

1. Financial Action Task Force on Money Laundering (FATF). The Forty Recommendations. –June 20, 2003.
2. Andreas M. Fleckner Stock Exchanges At The Crossroads (Mar. 6, 2005)
3. Jay D. Hansen. London Calling?: A Comparison of London and U.S. Stock Exchange Listing Requirements for foreign Equity Securities. DUKE J. COMP. & INT'L L. 1995.
4. International Corporate Differences: Markets of Law. Journal of Applied Corporate Finance. Winter. 1997.
5. Marcel Kahan, “Some Problems With Stock Exchange –Based Securities Regulation”, Symposium: the Allocation of Government Authority, Virginia Law Review, 1997.
6. Roberta S. Karmel, The Future of Corporate Governance Listing Requirements, 54 SMU L. REV. 325, 348 (2001)
7. David Kynaston, The City OF London. Vol. 1, A World of its own 1815-1890, 16-17 (1994).
8. Paul G. Mahoney, “The Exchange As regulator”, Symposium: the Allocation of Government Authority, Virginia Law Review, 1997.
9. Ranald C. Michie, The London Stock Exchange. A History, 3 (1999).
10. Spechler M.C. Uzbekistan: The Silk Road to Nowhere? –Contemporary Economic Policy. – Vol. 18. – Issue №3. –July 2000.
11. Subhashish Saha. Stock Exchange Demutualization and Self Regulation Securities and Exchange Board of India Mumbai. Preliminary Draft September 5, 2005.
12. D.Valeev Uzbek securities market regulation assessment in a view of state economic security // Uzbek Law Review. 2007 №2.
13. www.gki.uz
14. www.press-service.uz
15. www-ebrd.com/country/sector/law/index.htm (The Report of European Bank for Reconstruction and Development Report on the Quality of Securities Markets Legal Regimes in Early Transition Countries. – December 2004.)
16. [http://www.berlinerboerse.de/english\\_OBEX/obex/bb\\_chr.htm](http://www.berlinerboerse.de/english_OBEX/obex/bb_chr.htm).
17. www.uzse.uz
18. www.iosco.org/pubdocs/pdf/IOSCOPD125.pdf (IOSCO Objectives and Principles of Securities Regulation. May 2003).

## UZBEKISTANO VERTYBINIŲ POPIERIŲ RINKOS TEISINIO REGULIAVIMO KAITOS PROBLEMAS IR PERSPEKTYVOS

Otabek Narziev

### S a n t r a u k a

Straipsnio objektas – Uzbekistano vertybinių popierių rinka, konkrečiai šios rinkos teisinis reglamentavimas. Straipsnyje pateikiama Uzbekistano vertybinių popierių rinkos istorinė retrospektyva, jos raida ir galimos ateities tendencijos. Aptariama Uzbekistano vertybinių popierių rinkos teisinio reglamentavimo kaita, išskiriant vertybinių popierių biržos teisinį reglamentavimą, jo raidą. Autoriaus teigimu, vertybinių popierių rinka Uzbekistane – tai svarbi priemonė, kurios pagalba galima pritraukti kapitalo į šią Vidurinės Azijos valstybę.

Pirmiausia pateikiama bendra informacija apie vertybinių popierių biržas, jų atsiradimą ir plėtotę, paskui pereinama prie Uzbekistano patirties analizės, etapais aptariant vertybinių popierių rinkos bei vertybinių popierių biržos teisinio reglamentavimo kaitą. Palyginimo tikslais straipsnyje bendrais bruožais aptariamos 2004 m. gegužės 1 d. prie Europos Sąjungos prisijungusių dešimties naujų valstybių narių vertybinių popierių biržos, t. y. kaip jos veikia, taip pat nagrinėjamos ir kai kurių Nepriklausomų Valstybių Sandraugos valstybių vertybinių popierių biržos

ir jų teisinis reglamentavimas. Straipsnio pabaigoje iškeliamos problemos, su kuriomis, autoriaus nuomone, susiduria vertybinių popierių rinka bei vertybinių popierių birža Uzbekistane (pagrindinė – vertybinių popierių rinkos aktyvumo lėtėjimas, konkurencijos šioje ekonominės veiklos srityje trūkumas), savo ruožtu yra siūloma, kaip tas problemas spręsti ir tokiu būdu tobulinti vertybinių popierių rinkos teisinį reglamentavimą Uzbekistane.

Straipsnis įdomus pažintiniais tikslais ir lyginamosios teisėtyros požiūriu, t. y. palyginant vertybinių popierių rinkos teisinį reglamentavimą tolimoje Lietuvos Respublikai valstybėje Uzbekistane ir Lietuvoje. Savaiame suprantama, kad dėl skirtingo ekonominio išsivystymo bei vertybinių popierių rinkos funkcionavimo lygio būtų sunku nustatyti vertybinių popierių rinkos teisinio reguliavimo Lietuvoje ir Uzbekistane panašumus, tačiau bet kuriuo atveju lyginamoji analizė tikrai galėtų būti naudinga, tuo labiau kad istoriniu aspektu įvertinus vertybinių popierių teisinio reguliavimo vystymąsi abejose valstybėse, tikrai galima išžvelgti panašumų.

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